

**Assembly Bill No. 1520**

\_\_\_\_\_

Passed the Assembly August 22, 2014

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 20, 2014

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 1003 and 15212 of the Probate Code, relating to guardians ad litem.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1520, Gatto. Guardians ad litem: animals.

Existing law establishes requirements for the establishment and termination of a trust for the care of an animal.

Existing law authorizes a court to appoint a guardian ad litem at any stage of a proceeding under the Probate Code to represent the interest of specified persons, if the court determines that representation of the interest otherwise would be inadequate.

This bill would authorize a court to appoint a guardian ad litem to represent the interest of an animal for which a trust has been established if the court determines that representation of the interest otherwise would be inadequate.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1003 of the Probate Code is amended to read:

1003. (a) The court may, on its own motion or on request of a personal representative, guardian, conservator, trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding under this code to represent the interest of any of the following persons, if the court determines that representation of the interest otherwise would be inadequate:

- (1) A minor.
- (2) An incapacitated person.
- (3) An unborn person.
- (4) An unascertained person.
- (5) A person whose identity or address is unknown.
- (6) A designated class of persons who are not ascertained or are not in being.

(b) (1) For purposes of Section 15212, the court may, on its own motion or on request of a trustee or other person or organization described in Section 15212, appoint a guardian ad

litem to represent the interest of an animal for which a trust has been established, if the court determines that representation of the interest otherwise would be inadequate.

(2) The public guardian shall not be appointed as a guardian ad litem for purposes of this subdivision.

(c) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(d) The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved or by the petitioner or from such other source as the court orders.

SEC. 2. Section 15212 of the Probate Code is amended to read:

15212. (a) Subject to the requirements of this section, a trust for the care of an animal is a trust for a lawful noncharitable purpose. Unless expressly provided in the trust, the trust terminates when no animal living on the date of the settlor's death remains alive. The governing instrument of the animal trust shall be liberally construed to bring the trust within this section, to presume against the merely precatory or honorary nature of the disposition, and to carry out the general intent of the settlor. Extrinsic evidence is admissible in determining the settlor's intent.

(b) A trust for the care of an animal is subject to the following requirements:

(1) Except as expressly provided otherwise in the trust instrument, the principal or income shall not be converted to the use of the trustee or to any use other than for the benefit of the animal.

(2) Upon termination of the trust, the trustee shall distribute the unexpended trust property in the following order:

(A) As directed in the trust instrument.

(B) If the trust was created in a nonresiduary clause in the settlor's will or in a codicil to the settlor's will, under the residuary clause in the settlor's will.

(C) If the application of subparagraph (A) or (B) does not result in distribution of unexpended trust property, to the settlor's heirs under Section 21114.

(3) For the purposes of Section 21110, the residuary clause described in subparagraph (B) of paragraph (2) shall be treated as creating a future interest under the terms of a trust.

(c) The intended use of the principal or income may be enforced by a person designated for that purpose in the trust instrument or, if none is designated, by a person appointed by a court. In addition to a person identified in subdivision (a) of Section 17200, any person interested in the welfare of the animal or any nonprofit charitable organization that has as its principal activity the care of animals may petition the court regarding the trust as provided in Chapter 3 (commencing with Section 17200) of Part 5.

(d) If a trustee is not designated or no designated or successor trustee is willing or able to serve, a court shall name a trustee. A court may order the transfer of the trust property to a court-appointed trustee, if it is required to ensure that the intended use is carried out and if a successor trustee is not designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. A court may also make all other orders and determinations as it shall deem advisable to carry out the intent of the settlor and the purpose of this section.

(e) The accountings required by Section 16062 shall be provided to the beneficiaries who would be entitled to distribution if the animal were then deceased and to any nonprofit charitable corporation that has as its principal activity the care of animals and that has requested these accountings in writing. However, if the value of the assets in the trust does not exceed forty thousand dollars (\$40,000), no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee is required by reason of the existence of the fiduciary relationship of the trustee, unless ordered by the court or required by the trust instrument.

(f) Any beneficiary, any person designated by the trust instrument or the court to enforce the trust, or any nonprofit charitable corporation that has as its principal activity the care of animals may, upon reasonable request, inspect the animal, the premises where the animal is maintained, or the books and records of the trust.

(g) A trust governed by this section is not subject to termination pursuant to subdivision (b) of Section 15408.

(h) Section 15211 does not apply to a trust governed by this section.

(i) (1) The court may, on its own motion or on request of the trustee or any person or organization authorized to petition the

court regarding the trust pursuant to subdivision (c), appoint, in accordance with Section 1003, a guardian ad litem to represent the interest of the animal if the court determines that representation of the interest otherwise would be inadequate. The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of the trust or from another source as the court orders.

(2) The public guardian shall not be appointed as a guardian ad litem for purposes of this section.

(j) For purposes of this section, "animal" means a domestic or pet animal for the benefit of which a trust has been established.





Approved \_\_\_\_\_, 2014

---

*Governor*